



# United States Department of the Interior

OFFICE OF SURFACE MINING  
Reclamation and Enforcement  
Western Region Office  
1999 Broadway, Suite 3320  
Denver, CO 80202-3050



February 26, 2016

Kyle Wendtland  
Administrator, Land Quality Division  
Wyoming Department of Environmental Quality (WYDEQ)  
200 West 17<sup>th</sup> Street  
Cheyenne, WY 82002

RE: Ten Day Notices and Citizen's Complaint related to Peabody Energy's and Subsidiaries  
Mining Operations in Wyoming

Dear Mr. Wendtland:

The Office of Surface Mining Reclamation and Enforcement (OSMRE) has received your letter, dated February 17, 2016 requesting that OSMRE grant the Wyoming Department of Environmental Quality-Land Quality Division (WYDEQ) a time extension until March 25, 2016, to respond to the Ten-Day Notices (TDN's) issued to your office dated February 16, 2016 regarding Peabody Energy's and Subsidiaries (collectively Peabody) Mining Operations in Wyoming.

Pursuant to OSMRE's directive INE-35, OSMRE must accept interim responses as good cause under 30 CFR 842.11(b)(1)(ii)(B)(4)(ii) when the Regulatory Authority (RA) requests a reasonable and specified extension of time to decide whether a violation of the approved regulatory program exists and provides an adequate justification for the extension, including the status of the RA's investigation to date and the steps to be taken to determine whether the violation exists. The RA's justification must not be arbitrary, capricious, or an abuse of discretion.

After carefully reviewing your letter, OSMRE will grant your office a time extension until March 30, 2016, to respond to the TDN's regarding Peabody's mining operations in Wyoming. We are adding 5 additional days to respond in order to be consistent with other states' requests and approvals and to ensure you are able to fully respond to the allegations in the complaint.

Please respond as directed in 30 CFR 842.11, by March 30, 2016, by taking appropriate action to cause the possible violations to be corrected, or to show good cause for such failure. Appropriate action and good cause are defined 30 C.F.R. § 842.11(b)(1)(ii)(B)(3) and (4). Appropriate action includes enforcement or other action authorized under the State program to cause the violation to be corrected. Good cause includes showing that the possible violations do not exist under the approved State program, the State regulatory authority requires a reasonable and specified amount of additional time to determine whether a violation exists, the State regulatory authority lacks jurisdiction under its program over the possible violation or subject operation, the State regulatory authority is precluded by an administrative or judicial order from an administrative body or court of competent jurisdiction from acting on the possible violation where that order is based on the violation not existing or where temporary relief standards of section 525(c) or 526(c) of SMCRA have been met, or with regard to abandoned sites the State regulatory authority is diligently pursuing or has exhausted all appropriate enforcement provisions of the State program. After receiving your response, OSMRE will issue its written determination and, if necessary, will issue any necessary order to correct the violations, if found.

If you have any questions, please contact me at (307) 261-6550.

Sincerely,

A handwritten signature in blue ink, consisting of a large, stylized 'J' followed by a horizontal line extending to the right.

Jeffrey Fleischman, Chief  
Denver Field Division